

DEPARTMENT OF CORRECTIONS PROBATION AND PAROLE DIVISION OPERATIONAL PROCEDURE

Procedure No.: PPD 4.6.203	Subject: INTERSTATE (COMMISSION PROCEDURES
Reference: 46-23-1031, MCA; 46-23-1115, MCA		Page 1 of 12
Effective Date: 03/21/16		Revised:
Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator		

I. PURPOSE:

Probation and Parole Division employees shall be familiar with the interstate transfer process and follow established procedures concerning the transfer of offender supervision between Montana and other states.

II. DEFINITIONS:

<u>The Interstate Commission for Adult Offender Supervision (ICAOS)</u> – Made up of representatives appointed by the governor of each state to ensure interstate transfers are processed per federal law and state statute.

OOS – Out-of-state.

<u>Receiving State</u> – The state assuming supervision of an offender at another state's request.

<u>Resident</u> – A person who has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision, and who intends that such state shall be the person's principle place of residence and has not, unless incarcerated, relocated to another state or states for a continuous period of six months or more with the intent to establish a new principle place of residence.

<u>Resident Family</u> – A parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who 1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and 2) indicates willingness and ability to assist the offender as specified in the plan of supervision.

Retake Offender – An offender physically detained and removed from receiving state.

<u>Return Offender</u> – An offender who has requested or been ordered to return to the sending state for supervision.

Sending State – The state requesting the transfer of an offender's supervision.

<u>Sex Offender</u> – An adult who is required to register as a sexual offender either in the sending or receiving state and who is required to request transfer of supervision under the provisions of ICAOS.

<u>Subsequent Receiving (Third) State</u> – The state to which an offender is transferred that is not the sending state or the original receiving state.

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III. PROCEDURES:

A. INTERSTATE TRANSFERS

1. General Eligibility Requirements:

- a. A receiving state shall accept supervision if the probation, parole, or conditional release offender:
 - i. has 90 days or an indefinite period of supervision at the time the sending state transmits the transfer request;
 - ii. is substantially in compliance with the terms of supervision in the sending state and no revocation proceedings have been initiated by the sending state; and
 - iii. is a resident of receiving state; or
 - iv. has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision, and can obtain employment or has means of support; and
 - v. has a valid plan of supervision.
- b. A receiving state may approve the transfer of supervision of an offender who does not otherwise qualify for a transfer after investigating the home and prospective employment of the offender as a discretionary case.
- **c. Military Members**: An offender who is a member of the military and has been deployed to another state shall be eligible for reporting instructions and transfer of supervision. Military orders for offender must be provided.
- **d.** Offenders who Live with Family who are Members of the Military: An offender meeting the criteria and living with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision provided the offender will live with the military member in the receiving state. Military orders for family member must be provided.
- **e.** Employment Transfer of Family Member to Another State: An offender meeting the criteria and living with a family member who has been transferred to another state by his/her employer, shall be eligible for reporting instructions and transfer of supervision provided the offender will live with the family member in the receiving state. Employment letter for family member must be provided.
- **f. Employment Transfer of Offender**: An offender meeting the criteria and being transferred to another state by an employer at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision. Employment letter for offender must be provided.
- g. Transfers of Veterans for Medical or Mental Health Services: An offender meeting the criteria, who is a veteran of the United States military services, eligible to receive health care through the U.S. Department of Veterans Affairs, Veterans Health Administration (VA), and is referred for medical and/or mental health services by the VA to a regional VA facility in the receiving state, shall be eligible for reporting instructions and transfer of supervision if the sending state provides documentation to the receiving state of the medical and/or mental health referral and documentation of acceptance to the VA facility.

h. Transfer of Supervision of Sexual Offenders:

i. <u>Eligibility for Transfer</u>: At the discretion of the sending state, a sexual offender shall be eligible for transfer to a receiving state under the interstate compact rules. The offender shall not be allowed to leave the sending state until the sending state's request for transfer of supervision has been approved, or reporting instructions have been issued, by the receiving state.

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- ii. <u>Application for Transfer</u>: In an application for transfer of supervision of a sexual offender, the sending state shall provide all information, if available, to assist the receiving state in supervising the offender:
 - 1) Assessment information, including sexual offender specific assessments;
 - 2) Social history;
 - 3) Information relevant to the offender's criminal sexual behavior;
 - 4) Law enforcement report that provides specific details of sex offense;
 - 5) Victim Information:
 - a) the name, sex, age and relationship to offender;
 - b) statement of the victim or victim's representative; and
 - 6) The sending state's current or recommended supervision and treatment plan.
- iii. Reporting Instructions for sexual offenders:
 - 1) The receiving state shall have five (5) business days to review the proposed residence to ensure compliance with local policies or laws prior to issuing reporting instructions. **Offender must remain in Montana pending reporting instructions.** If the proposed residence is invalid due to existing state law or policy, the receiving state may deny reporting instructions.
 - 2) No travel permit shall be granted by the sending state until reporting instructions are issued by the receiving state.

2. Montana Offender's Transfer Application - Procedures And Responsibilities:

a. A residence and employment plan is submitted to the supervising P&P Officer/IPPO when requesting transfer to another state.

Offender

b. Offender is informed of the interstate transfer application fee and waiver procedure.

P&P/ISP Officer IPPO/PRC Liaison

- i. An offender sentenced in the state of Montana is required to pay an interstate transfer application fee of \$50 that must be attached to the original, signed *Interstate Offender's Application for Interstate Compact Transfer* and submitted to the Interstate Section. Applications will not be processed without the fee attached. The two acceptable forms of payment are money orders or cashier's checks made out to the DOC. Offenders incarcerated in correctional facility may have an inmate account check issued to the DOC. The fee is paid for each application submitted. Offender will receive a receipt for the amount paid.
- RA/POII/IPPO
- ii. The RA or POII may determine the fee will result in a significant financial hardship to the offender and may request a reduced fee, a deferred payment, or waive the fee. Using *PPD 4.6.203(B) Interstate Application Fee Waiver Request*, the RA/POII/IPPO will recommend approval or denial and submit to the Deputy Compact Administrator (DCA). The DCA has final say in the approval or denial of all waivers. Any failure to pay the application fee without securing a hardship waiver will result in the application being returned.

DCA

iii. All third state transfers are required to pay the \$50 interstate transfer application fee to the Interstate Section and may also be required to pay an interstate transfer application fee to the sending state.

Offender

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c. A Transfer Request can be completed in conjunction with PPD 4.6.203(A) Interstate Transfer Request Checklist to ensure all required information is included; however, this is not mandatory.

P&P Officer

d. Employment and residence plan in other state is verified. Verification must be made by phone or email contact. A P.O. Box number is unacceptable for an address.

P&P Officer

- The Request for Reporting Instructions is submitted to the Interstate Section if the offender is a returning resident; was residing in that state at the time of sentencing; after disposition of a violation or revocation proceeding; or in emergency circumstances. The Request will only be submitted in conjunction with a complete transfer request (see #h below). All required documentation will be submitted by email or fax; only the original, signed application and application fee shall be mailed. The Interstate Section will submit the Request for Reporting Instructions to the receiving state if the requirements are met. P&P Officers DO NOT MAKE OMIS MOVES when offender leaves on reporting instructions.
- All other offenders will remain in Montana until the investigation is complete. DO NOT GIVE TRAVEL PERMIT pending transfer if offender does not have reporting instructions.
- e. If an offender was residing in that state at sentencing and is not a sexual offender, the offender can be given a seven (7) day travel permit to return to his/her resident state. Within the 7 days, a Request for Reporting Instructions must be submitted by email in conjunction with a complete transfer request.

- f. The Interstate Offender's Application for Interstate Compact Transfer must be signed by offender **prior** to his/her departure. If offender refuses to sign any form or pay the fee, a travel permit will not be issued.
- g. If offender is being sent to the receiving state on reporting instructions, a Travel Permit-OMIS is generated, saved and issued in accordance with PPD 5.1.103 Offender Travel and includes reporting instructions obtained from the receiving state. Officer then emails Interstate Section providing the date offender is leaving and when he/she is expected to arrive in receiving state.

h. Transfer Request must be submitted to the Interstate Section electronically unless offender is in a facility. The Request shall include:

- Offender's Application for Interstate Compact Transfer, i. original, signed;
- Transfer Request, original; ii.
- iii. PPD 4.6.203(A) Interstate Transfer Request Checklist, optional;

P&P Officer

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- iv. \$50 money order for interstate transfer application fee or *PPD 4.6.203(B) Interstate Application Fee Waiver Request* (if applicable), original;
- v. Copy of offender receipt for payment;
- vi. Judgment or Court Minutes (original sentences and all revocations);
- vii. Information; Affidavit for Leave to File Information or Police Report;
- viii. PPD 1.5.506(B) Pre-Sentence Investigation or PPD 1.5.506(D) PSI Questionnaire;
- ix. Psychological reports, if available;
- x. Medical documentation for serious conditions and any prescribed medication;
- xi. Criminal history;
- xii. Narrative of current supervision history, if on supervision more than 30 days;
- xiii. Copy of signed conditions of supervision;
- xiv. Sexual/Violent offender registration information;
- xv. Victim Information: on victim sensitive cases if victim wants notification only, any orders restricting contact;
- xvi. Fine/Restitution information; and
- xvii.Summary of prison discipline and mental health history during last two (2) years, if available.
- i. OMIS movement shall be completed when offender's transfer request has been approved by the receiving state.
- j. Forward parole and conditional release offender's field file to Interstate Section when offender is officially accepted by receiving state.
- k. Subsequent Receiving (Third) State Transfers for OOS Offenders
 - i. Complete the following forms and submit originals to the Interstate Section (copies for field file):
 - 1) Request for Reporting Instructions (only if immediate/ emergency leave is needed);
 - 2) Offender's Application for Interstate Compact Transfer;
 - 3) Current Progress Report; and
 - 4) \$50 interstate transfer application fee in the form of a money order or cashier's check made out to DOC.
 - ii. Once a date has been established for departure, email Interstate Section with the date offender is leaving and when he/she is expected to arrive in receiving state. *Travel Permit-OMIS* will be generated, saved, and issued.
 - iii. Interstate Section will close the case.

3. Transfer Request to Montana - Procedures And Responsibilities:

a. *Transfer Request* on out-of-state offender is forwarded to the field office. If the offender's offense is equivalent to a Montana offense that requires registration, or if the offender is required to register as a sexual offender in another state, he/she will be required to register as a sexual offender in Montana.

MT Interstate Section

P&P Officer

P&P Officer

MT Interstate Section

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b. Case is assigned to P&P Officer for investigation. If an interstate transfer is received, the Officer will count the offender on the end of month statistics as a "Placement Investigation." Once the offender is accepted for supervision, the Officer will classify him/her as "New" on the end of month statistics.

RA or POII P&P Officer

c. P&P Officer will have 30 days to investigate the request.

d. Send email to Interstate Section reporting approval or denial. If denied, specific reasons need to be detailed in email.

P&P Officer P&P Officer

e. All Montana standard conditions are mandated on all transfers. Other special conditions should be limited and not more restrictive than sending state's judgment. Special conditions can be imposed if deemed appropriate by the Interstate Section for public safety reasons. Suggested special conditions need to be included in the email. The Intensive Supervision Program (ISP) cannot be used as a level of supervision upon accepting offenders; however, ISP can be used as an intervention and level of supervision for transferred offenders who commit violations.

P&P Officer MT Interstate Section

f. If a transferred offender does not have a pre-sentence investigation report in his/her file, the P&P Officer is not required to complete *PPD 1.5.506(F) Post Sentence Investigation* on the offender, but will have offender complete *PPD 1.5.506(D) Pre-Sentence Investigation Questionnaire* for placement in the offender's field file.

P&P Officer

g. Reporting Instructions prior to transfer approval/denial: When an interstate applicant has been given reporting instructions and physically reports to the P&P office, the following will be completed:

P&P Officer

- i. Email containing date offender reported is immediately sent to Interstate Section.
- ii. OMIS entries completed:
 - 1) <u>Basic information</u> Use the ADD OFFENDER function of OMIS;
 - Correctional Status Select a correctional status of ISC PENDING with a change reason of PENDING INTERSTATE COMPACT APPROVAL and using the reporting date as the BEGIN DATE;
 - 3) Officer Assigned Use INTERSTATE COMPACT PENDING as the Supervision Level with reporting date as the START DATE;
 - 4) NO Location entry is made at this time.
- h. ** Approved Reporting Instructions does not mean the Transfer Request has been approved. DO NOT sign up to conditions of supervision until offender has been officially accepted.

P&P Officer

- i. Approved Transfer Requests:
 - i. When transfer is approved **and offender is in Montana**, the following OMIS entries will be completed:

P&P Officer

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- Correctional Status Select new correctional status of PAROLE or PROBATION with a change reason of INTERSTATE COMPACT - SUPERVISION FROM OTHER STATE and using Interstate Section's approval date as the BEGIN DATE;
- 2) <u>Location</u> Enter appropriate location with a reason of INTERSTATE COMPACT - SUPERVISION FROM OTHER STATE AND using Interstate Section's approval date as the BEGIN DATE;
- 3) <u>Assigned Officer</u> Make new entry selecting appropriate Supervision Level and using Interstate Section's approval date as the START DATE.
- ii. Sign-up procedures and risk and needs assessments will be completed.

iii. <u>Transfer Approved, but arrival of offender is pending</u>: OMIS entries and sign-up procedures will not be completed until offender has physically reported to office. Notification is made to Interstate Section once the offender reports.

iv. Interstate Section will enter legal sentencing information and expiration date into OMIS.

v. If the offender fails to arrive within five (5) days of the departure date, notify the Interstate Section immediately by email noting offender's failure to report.

j. Denied Transfer Requests:

- i. If the transfer is denied, pertinent information gathered on the offender during the investigation should be included in the email to Interstate Section. If there is confidential information that cannot be included in the denial, this information should be labeled as such in denial email. OMIS entries will then be purged. All collected information on offender will be maintained in the Interstate Section's database.
- ii. If Montana denies the transfer request, the Interstate Section will submit the denial and a request for reporting instructions to return offender to the sending state. P&P Officer will provide the Interstate Section the necessary leave date information, including when and how the offender is returning, and to what plan he/she is returning.
- iii. When transfer is denied **and offender is in Montana on approved reporting instructions**, supervising P&P Officer will continue supervision of the offender until reporting instructions from the sending state have been received:
 - 1) Obtain a return address from offender and include with email to Interstate Section denying transfer;
 - 2) Reporting instructions are requested from sending state and sending state will have two (2) days to respond. When received, reporting instructions will be forwarded to supervising Officer.

P&P Officer

P&P Officer

MT Interstate Section

P&P Officer

P&P Officer

MT Interstate Section

P&P Officer

P&P Officer

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issued	cation is made to Interstate when travel permit is to offender to return;	P&P officer
-	ture Notice is submitted to sending state.	MT Interstate Section
significant chat of the offender i. Programm conditions ii. Transfer t iii. Brief sum compliant iv. Notifications v. Request f Section w vi. Attachme b. Information re need to be incl	orts are submitted annually or when there are inges to report that may or may not affect the status r, such as: ning or treatment completed; completion of s. o a subsequent receiving state. Improve of offender's conduct, progress, attitude and ce (due to ICAOS restraints, must be concise). on that an intervention hearing was held and	P&P Officer P&P Officer
written, must go not contact other etc., but will en	Correspondence: All communication, oral and through the Interstate Section. P&P Officers shall r officers, courts, county attorneys, other state(s), nail the Interstate Section to request information sending state (i.e. restitution info).	P&P Officer

i. The offender's status is determined and alleged violations are thoroughly investigated. The supervising P&P Officer must use interventions such as jail, CD counseling, etc., to address violations as they would any Montana offender in the appropriate manner deemed necessary. All available and appropriate interventions/sanctions must be utilized prior to requesting revocation from the sending state.

i. If offender continues to violate or has severe violations, P&P Officer should staff the violations with his/her supervisor to determine if an intervention hearing is appropriate. If the offender is going to be sanctioned and remain in Montana on supervision, then an intervention hearing can be held to address the violations pursuant to probation and parole hearings procedures. Officer may complete a *Progress Report* and submit it to the Interstate Section within 30 days of the violation.

P&P Officer

P&P Officer RA or POII

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will	P&P Officer believes revocation is appropriate, he/she contact the out-of-state Interstate Agent or Deputy pact Administrator (DCA) to staff the case.	P&P Officer
iv. If it is return Viola violat added All violat sancti 1) D co 2) E. a)	s determined to proceed with requesting revocation and of the offender to the sending state, the <i>Offender tion Report (OVR)</i> is completed within 30 days of the ion. If Montana accepted the offender under special conditions, these conditions can be used as violations. Violations must be substantiated with no previous ons/interventions applied to address them. The ue to ICAOS restraints, wording in the <i>OVR</i> must be as oncise as possible. **Examples: **Residence*: On 10/15/04, Smith moved to a new apartment without the permission of his PO. **Offender will not be allowed to own, possess, or have access to computers*: On 10/15/04 a home check was conducted at the reported residence. A computer was confiscated on this date. **Illegal Drug Use*: On (date) tested positive for THC.	P&P Officer
v. If <i>O</i> (prob offen	VR is appropriate, a preliminary on-site hearing able cause) will be conducted as soon as possible if the der did not waive the hearing. P&P Officer will prepare 140-2(B) Notice/Waiver of On-Site Hearing for	P&P Hearings Officer P&P Officer
vi. The one and/o	tate Offender and present to offender. OVR and P&P 140-2(B) Notice/Waiver with admission of P&P 140-2(A) Summary of On-Site Hearing are litted electronically to the Interstate Section.	P&P Officer
vii. These to the be ta Viola	documents are reviewed and edited prior to submitting sending state requesting a response of what action will aken. Sending state shall respond to the <i>Offender tion Report</i> within 10 business days by utilizing the conse to Violation Report.	MT Interstate Section
viii. If the risk to Mont **An retak	offender is determined to be a risk to the community or abscond supervision, a field warrant may be issued by an Officer after staffing with supervisor. interstate offender shall not be admitted to bail if ing procedures have been instituted by the sending ceiving state (Montana).	P&P Officer
ix. If off subm Section	ender is ordered to return, Montana P&P Officer will it a request for reporting instructions to Interstate on to submit to sending state and provide departure is upon receipt.	P&P Officer
x. If off	ender is retaken by the sending state, Interstate will the case and complete OMIS entries.	MT Interstate Section
xi. If the	sending state does not return offender, Montana will	P&P Officer MT Interstate Section

continue supervision of the offender as directed by the

sending state.

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b. NEW CHARGES:

i. Montana may initially detain an out-of-state offender who has committed a crime against the laws in Montana if deemed necessary after staffing with supervisor.

P&P Officer

ii. Officer may hold the offender on a field warrant until new charges are processed and bail/bond is set. Once held on new charges, field warrant will be cancelled. If offender bonds or is released, Officer continues to supervise until charges are disposed of. If offender poses security risk, the Officer will staff case with DCA to discuss further jail hold.

P&P Officer

iii. Once charges are disposed of, the judgment is sent with the *OVR* to the Interstate Section. *OVR* should include any technical violations not previously sanctioned for. No hearing is required upon disposition of the new charges.

P&P Officer

iv. Interstate Section reviews, edits and submits information to sending state to determine what action the sending state will take.

MT Interstate Section

- 1) Sending state shall respond to the *OVR* within 10 business days by utilizing the *Response to Violation Report*.
- 2) **An interstate offender shall not be admitted to bail if retaking procedures have been instituted by the sending or receiving state (Montana).

v. If not returned to the sending state, supervision of the offender is continued at the direction of the sending state.

P&P Officer

vi. If offender is ordered to return, Montana P&P Officer will submit a request for reporting instructions to Interstate Section to submit to sending state and provide departure details upon receipt.

P&P Officer

vii. If offender is retaken by the sending state, Interstate Section will close the case and complete OMIS entries.

MT Interstate Section

c. ABSCONDERS:

i. If there is reason to believe that an offender has absconded, the receiving state shall attempt to locate the offender. Such activities will include, but are not limited to:

P&P Officer

- 1) Conducting a field contact at the last known place of residence;
- 2) Contacting the last known place of employment, if applicable;
- 3) Contacting known family members and collateral contacts.
- ii. If offender is not located, complete the *OVR* and email it to the Interstate Section. The *OVR* must include detailed information regarding steps 1-3 above.

P&P Officer

iii. The Interstate Section will close case.

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2. Montana Offenders Supervised in Other State:

a. The *OVR* is forwarded to the Interstate Section advising of pending violation(s) within 30 days of the violation. If the offender is in custody on new charges, all other pertinent documents are included.

OOS Interstate Unit

b. A probable cause hearing is conducted on all violation reports requesting retake unless the offender has waived the hearing and admitted to at least one violation: OOS P&P Officer OOS Hearing Officer

- i. The hearing report or waiver of hearing is forwarded to the Interstate Section requesting a response.
- ii. If there are new charges, copies of the disposition are forwarded to the Interstate Section.
- c. Interstate Section will respond to the request within 10 business days utilizing the *Response to Violation Report*.

MT Interstate Section

d. If the offender is not returned, the receiving state will maintain supervision.

OOS P&P Officer

e. Offenders ordered to return to Montana by the DCA will be placed back on supervision in Montana as a sanction for violations

MT Interstate Section

f. If a revocation is to be requested from the court, the *OVR* with attached *Notice of Violation* is forwarded to the sentencing district office for submission to the District Court.

MT Interstate Section

g. If a parole offender is retaken by Montana and returned to custody for revocation proceedings, *OVR* is filed with the BOPP. Conditional release offenders will be transported to START (males)/Passages ASRC (females) for custody, or jail, unless other placement is determined. All disciplinary hearings will be held in the receiving state prior to return. Files are sent to the respective IPPOs, and OMIS movements are entered.

MT Interstate Section

h. **Pursuant to Section 5.111 of Compact, an interstate offender who has been arrested in any state shall not be admitted to bail while Montana is in the process of retaking the offender.

C. CLOSURE NOTICE PROCEDURES AND RESPONSIBILITIES

1. Return to the Sending State:

a. Submit a *Request for Reporting Instructions* to Interstate Section and include the address of residence, phone number, name and relationship of the contact person. Offender must remain in Montana until reporting instructions are approved.

P&P Officer

b. Upon receiving reporting instructions, email the Interstate Section including the date offender is leaving and when he/she is expected to arrive in sending state. Interstate will complete OMIS moves releasing offender.

P&P Officer

MT Interstate Section

2. Other Case Closures:

a. P&P Officer will email Interstate Section with information needed to close a case in most of the following circumstances:

P&P Officer

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- i. <u>Discharging Supervision or Receiving Early Discharge</u>: If offender receives early discharge, notifies Interstate immediately upon notice of release.
- ii. <u>Notification of Death</u>: Email Interstate Section with proof of the offender's death attached, such as the death certificate, obituary from a newspaper, police report or a statement from a coroner.
- iii. Offender Incarcerated for 180 Days or Longer in Receiving State: Email Interstate Section with information regarding offender's location with copies of the Judgment and Sentencing documents attached.
- b. The Interstate Section shall review, verify, and approve the reason for closing the case and, if approved, will close the case.

c. Upon verification, OMIS entries will be completed.

MT Interstate Section

P&P Officer/MT Interstate Section

IV. CLOSING:

Questions concerning this procedure shall be directed to the Regional Administrator or the Deputy Compact Administrator.

V. FORMS:

PPD 4.6.203 (A)	Interstate Transfer Request Checklist
PPD 4.6.203 (B)	Interstate Application Fee Waiver Request
Interstate	Offender's Application for Interstate Compact Transfer
Interstate	Request for Reporting Instructions

Interstate Transfer Request Interstate Progress Report

Interstate Notice of Violation (only used by Interstate Compact Section)

Interstate Offender Violation Report

Interstate Response to Violation Report (only used by Interstate Compact Section)

P&P 140-2 (A) Summary of On-Site Hearing

P&P 140-2 (B) Notice/Waiver of On-Site Hearing for Interstate Offender

PPD 5.1.103 (A) Travel Permit – OMIS